

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

MELANIE WELCH,

Case No.

Plaintiff,

Hon.

v.

WHOLE FOODS MARKET, INC., WHOLE FOODS MARKET GROUP, INC., WHOLE FOODS MARKET MIDWEST, INC., WHOLE FOODS MARKET, ARAMARK UNIFORM SERVICES, ARAMARK UNIFORM & CAREER APPAREL, LLC, ARAMARK SERVICES, INC., ARAMARK UNIFORM RENTALS, AUS DETROIT MICHIGAN, ARAMARK DETROIT, ARAMARK, jointly and severally,

Defendants.

Michael J. Garris (P30185) GARRIS, GARRIS, GARRIS & GARRIS, PC Attorneys for Plaintiff 300 E. Washington St. Ann Arbor, MI 48104 (734) 761-7282	John "Jack" P. Deegan (P55630) Rhonda R. Stowers (P64083) PLUNKETT COONEY Attorneys for Defendant 406 Bay Street, Suite 300 Petoskey, MI 49770 (231) 348-6435 jdeegan@plunkettcooney.com
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NOTICE OF FILING NOTICE OF REMOVAL (CIRCUIT COURT)

NOTICE OF FILING NOTICE OF REMOVAL (FEDERAL COURT)

**NOTICE OF REMOVAL OF CAUSE TO THE UNITED STATES
DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN**

VERIFICATION

APPEARANCE (FEDERAL COURT)

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW**

MELANIE WELCH,

Case No. 18-1287-NI

Plaintiff,

Hon. David S. Swartz

v.

WHOLE FOODS MARKET, INC., WHOLE FOODS MARKET GROUP, INC., WHOLE FOODS MARKET MIDWEST, INC., WHOLE FOODS MARKET, ARAMARK UNIFORM SERVICES, ARAMARK UNIFORM & CAREER APPAREL, LLC, ARAMARK SERVICES, INC., ARAMARK UNIFORM RENTALS, AUS DETROIT MICHIGAN, ARAMARK DETROIT, ARAMARK, jointly and severally,

Defendants.

Michael J. Garris (P30185)
GARRIS, GARRIS, GARRIS & GARRIS, PC
Attorneys for Plaintiff
300 E. Washington St.
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John "Jack" P. Deegan (P55630)
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Attorneys for Defendant Aramark Uniform &
Career Apparel, LLC
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**NOTICE OF FILING REMOVAL WITH THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §1441, Defendant, Aramark Uniform & Career Apparel, LLC, hereby files its Notice of Removal, a copy of which is attached hereto and which was filed with the United States District Court, Eastern District of Michigan on January 3, 2019.

Respectfully submitted,

PLUNKETT COONEY

Date: 1/3/19

By:



John "Jack" P. Deegan (P55630)
Rhonda R. Stowers (P64083)
Attorneys for Defendant Aramark
Uniform & Career Apparel, LLC
406 Bay Street, Suite 300
Petoskey, MI 49770
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PROOF OF SERVICE

The undersigned certifies that the foregoing document was served upon all parties to the above cause to each of the attorney(s) of record herein at their respective business address(es) as disclosed on the pleadings on said date:

VIA:

Date

January 3, 2019

<input type="checkbox"/> Hand delivery	<input type="checkbox"/> Overnight mail
<input checked="" type="checkbox"/> U.S. Mail	<input type="checkbox"/> Facsimile
<input type="checkbox"/> E-Mail	<input type="checkbox"/> Certified Mail

I declare under the penalty of perjury that the foregoing statement is true to the best of my information, knowledge and belief.

John P. Deegan

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

MELANIE WELCH,

Case No.

Plaintiff,

Hon.

v.

WHOLE FOODS MARKET, INC., WHOLE FOODS MARKET GROUP, INC., WHOLE FOODS MARKET MIDWEST, INC., WHOLE FOODS MARKET, ARAMARK UNIFORM SERVICES, ARAMARK UNIFORM & CAREER APPAREL, LLC, ARAMARK SERVICES, INC., ARAMARK UNIFORM RENTALS, AUS DETROIT MICHIGAN, ARAMARK DETROIT, ARAMARK, jointly and severally,

Defendants.

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**NOTICE OF FILING REMOVAL OF CAUSE TO THE
UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN**

PLEASE TAKE NOTICE that, pursuant to 28 USC §1441, Defendant, Aramark Uniform & Career Apparel, LLC, a foreign corporation, hereby files

with the Clerk of the Court a copy of its Notice of Removal, attached hereto, and which was filed with the United States District Court, Eastern District of Michigan, on January 3, 2019.

Respectfully submitted,

PLUNKETT COONEY

/s/Rhonda R. Stowers
Rhonda R. Stowers (P64083)
Attorney for Defendant
111 E. Court St., Ste. 1B
Flint, MI 48502
(810) 342-7003
rstowers@plunkettcooney.com

Dated: 1/3/19

CERTIFICATE OF ELECTRONIC FILING

Rhonda Stowers certifies that a copy of the Removal documents and this Certificate of Electronic Filing was electronically filed with the United States District Court, Eastern District of Michigan, in the above cause on 1/3/19. A copy will be provided to counsel of record via first class mail. I declare under the penalty of perjury that the above statement is true to the best of my knowledge, information and belief.

/s/Rhonda R. Stowers
Rhonda R. Stowers (P64083)
Attorney for Defendant
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(810) 342-7003
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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

MELANIE WELCH,

Case No.

Plaintiff,

Hon.

v.

WHOLE FOODS MARKET, INC., WHOLE FOODS MARKET GROUP, INC., WHOLE FOODS MARKET MIDWEST, INC., WHOLE FOODS MARKET, ARAMARK UNIFORM SERVICES, ARAMARK UNIFORM & CAREER APPAREL, LLC, ARAMARK SERVICES, INC., ARAMARK UNIFORM RENTALS, AUS DETROIT MICHIGAN, ARAMARK DETROIT, ARAMARK, jointly and severally,

Defendants.

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**NOTICE OF REMOVAL FOR CAUSE TO THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF MICHIGAN**

NOW COMES Defendant, Aramark Uniform & Career Apparel, LLC (hereafter "Aramark"), a foreign corporation, by and through its attorneys, Plunkett Cooney, pursuant to 28 U.S.C.A. §§ 1332, 1441 and 1446, hereby files

this Notice of Removal of the above-captioned matter to the United States District Court for the Eastern District of Michigan, from the Midland County Circuit Court where the action is now pending and states as follows:

1. The above-captioned matter was filed in Washtenaw County Circuit Court on or about December 11, 2018, and is now pending in that court.
2. Defendant Aramark first received a copy of the Summons and Complaint in this matter on or about December 14, 2018.
3. The above-captioned matter is a suit at common law of a civil nature brought by Plaintiff, Melanie Welch, in which the Plaintiff seeks monetary damages as a result of premises liability and Defendants' alleged negligence.
4. The above-captioned matter involves a controversy which is wholly between citizen of different states in that at the time of the commencement of this action in Washtenaw County Circuit Court, the Plaintiff was a citizen and resident of the City of Ann Arbor, County of Washtenaw, State of Michigan and the named Defendants were, and still are, foreign corporations with principal places of business outside this state (Defendant Whole Foods Market, Inc/Whole Foods Market ceased operations in 1995, but was previously incorporated in Texas; Whole Foods Market Group, Inc. is a

Delaware corporation; Whole Foods Market, Midwest was a Delaware corporation; Aramark Uniform & Career Apparel, LLC, the Aramark entity that is the party in interest in this litigation, is likewise a Delaware Corporation).

5. This action is one over which the District Courts of the United States are given original jurisdiction.

6. The time within which Defendant is required to file this Notice of Removal to Federal Court has not yet expired.

7. According to the allegations in Plaintiff's Complaint, Plaintiff seeks to recover monetary damages in connection with alleged injuries sustained as a result of Defendant's alleged negligence.

8. According to Plaintiff's Complaint, attached as Exhibit A, Plaintiff seeks to recover damages in excess of \$25,000, exclusive of interest and costs in this matter, for injuries Plaintiff alleges resulted in physical pain and suffering and past, present and future mental anguish, together with a decreased enjoyment of life to the present, medical bills and miscellaneous expenses.

9. Defendant files with this Notice a copy of all process, pleadings and orders served upon Defendant in this action (See Exhibit A).

10. This action is removable to this Court under and by virtue of the acts of Congress of the United States.

11. Upon information and belief, all Defendants concur in the removal of this action and/or have not been served.

12. Defendant has served written notice of the filing of this Notice as required by 28 U.S.C.A. § 1446(d).

13. A copy of this Notice will be filed with the Clerk of the Washtenaw County Circuit Court, as required by 28 U.S.C.A. § 1446(d).

WHEREFORE, Defendant Aramark, respectfully requests that it may effectuate removal of this action from the Circuit Court for the County of Washtenaw, State of Michigan, to the United States District Court for the Eastern District of Michigan, and that this action proceed in this Court as an action properly removed.

Respectfully submitted,

PLUNKETT COONEY

/s/Rhonda R. Stowers
Rhonda R. Stowers (P64083)
Attorney for Defendant
111 E. Court St., Ste. 1B
Flint, MI 48502
(810) 342-7003
rstowers@plunkettcooney.com

Dated: 1/3/19

Exhibit A – Plaintiff's Complaint

STATE OF MICHIGAN

IN THE 22nd CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

MELANIE WELCH,

Plaintiff,

File No. 18-1287 -NI

Honorable: DAVID S. SWARTZ

v

WHOLE FOODS MARKET, INC.,
WHOLE FOODS MARKET GROUP, INC.,
WHOLE FOODS MARKET MIDWEST, INC.
WHOLE FOODS MARKET,
ARAMARK UNIFORM SERVICES,
ARAMARK UNIFORM & CAREER APPAREL, LLC,
ARAMARK SERVICES, INC,
ARAMARK UNIFORM RENTALS,
AUS DETROIT MICHIGAN,
ARAMARK DETROIT,
ARAMARK, jointly and severally

Defendants.

Michael J. Garris (P30185)
GARRIS, GARRIS, GARRIS & GARRIS, P.C.
Attorneys for Plaintiff
300 East Washington Street
Ann Arbor, Michigan 48104
(734) 761-7282

PLAINTIFF'S COMPLAINT

NOW COMES the Plaintiff herein, Melanie Welch by and through her attorneys Garris, Garris, Garris & Garris, P. C. and for her Complaint against the Defendants, states as follows:

COMMON ALLEGATIONS

1. At all times material to this Complaint, the Plaintiff resided in the City of Ann Arbor, County of Washtenaw and State of Michigan.

2. At all times material to this Complaint, upon information and belief, Defendant Whole Foods Market, Inc. was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

3. At all times material to this Complaint, upon information and belief, Defendants Whole Foods Market Group, Inc. was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

4. At all times material to this Complaint, upon information and belief, Defendant Whole Foods Market Midwest, Inc. was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

5. At all times material to this Complaint, upon information and belief, Defendant Whole Foods Market was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

6. At all times material to this Complaint, upon information and belief, Defendant Aramark Uniform Services was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

7. At all times material to this Complaint, upon information and belief, Defendant Aramark Uniform & Career Apparel, LLC was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

LAW OFFICES
GARRIS, GARRIS & GARRIS, P.C.
GARRIS LAW BUILDING
300 E. WASHINGTON STREET
ANN ARBOR, MICHIGAN 48104
Telephone: (734) 761-7282

8. At all times material to this Complaint, upon information and belief, Defendant Aramark Services, Inc, was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

9. At all times material to this Complaint, upon information and belief, Defendant Aramark Uniform Rentals was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

10. At all times material to this Complaint, upon information and belief, Defendant AUS Detroit Michigan was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

11. At all times material to this Complaint, upon information and belief, Defendant Aramark Detroit was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

12. At all times material to this Complaint, upon information and belief, Defendant Aramark was registered to do business in the State of Michigan and was doing substantial business in the City of Ann Arbor, County of Washtenaw and State of Michigan.

13. The amount in controversy exceeds the sum of \$25,000.00, exclusive of costs, interest and attorney fees.

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COUNT I - PREMISES LIABILITY

14. The Plaintiff incorporates by reference all other paragraphs of her Complaint to eliminate repetition.

15. At all times material to this Complaint, upon information and belief, Defendants Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc., and/or Whole Foods Market, and/or their agents were the possessor of the property located at 990 West Eisenhower Parkway in the City of Ann Arbor, County of Washtenaw and State of Michigan.

16. At all times material to this Complaint, upon Information and belief, Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark and/or Aramark Detroit and/or their agents had contracted with Defendants Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents to provide floor mats at the store at 990 West Eisenhower Parkway in the City of Ann Arbor, County of Washtenaw and State of Michigan.

17. At all times material to this Complaint, Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents and/or employees were acting as agents of Defendants Whole Foods Market, Inc., Defendants Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market, and were acting within the scope of their apparent, implied and/or actual authority.

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18. On December 18, 2015, Plaintiff Melanie Welch had gone to the store at 990 West Eisenhower Parkway in the City of Ann Arbor, County of Washtenaw and State of Michigan to shop.

19. On the above date, Plaintiff Melanie Welch was walking towards the vegetable section when she caught her right foot on the floor mat in front of the produce, which had puckered and/or moved.

20. This caused the Plaintiff Melanie Welch to fall and injure herself.

21. At all times material to this Complaint, Plaintiff Melanie Welch was an invitee to the property/business at 990 West Eisenhower Parkway in the City of Ann Arbor, County of Washtenaw and State of Michigan.

22. Upon information and belief, the area where the Plaintiff Melanie Welch fell was under the control of the Defendants Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents.

23. After Plaintiff's fall, an agent and/or employee of Defendants Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market informed Melanie Welch that other persons had tripped and/or fallen on these floor mats, prior to Plaintiff Melanie Welch's fall.

24. After Plaintiff Melanie Welch's fall, an agent and/or employee of Defendants Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market, informed Plaintiff Melanie Welch that they had instructed other individuals to remove and/or replace these floor mats prior to the Plaintiff's fall, because other people had tripped on them.

25. Upon information and belief, other individuals had previously tripped and/or fallen on the same floor mat at the same location, or a similar type floor mat, that caused the Plaintiff to fall.

26. The specific floor mat referred to in this Complaint would move and/or pucker, as they were not the proper type for this use and/or not properly secured to the floor.

27. The Defendants Whole Foods Market, Inc, Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents use of the floor mat that would move and/or pucker created a danger for the Plaintiff and other individuals that happen to walk in the area.

28. The condition of the floor mat that would move and/or pucker constituted an unsafe, dangerous, hazardous and/or defective condition of said area/equipment.

29. The danger of Plaintiff Melanie Welch and/or other individuals falling on the moving and/or puckering floor mat was foreseeable to Defendants Whole Foods Market, Inc, Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents.

30. The Defendants Whole Foods Market, Inc, Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents knew or should have known that the type of floor mats that were placed down in the store that Plaintiff fell on were similar to the type that Plaintiff fell on, and created a danger to individuals that would use the area.

31. At all times material to this complaint, Defendants Whole Foods Market, Inc, Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or

Whole Foods Market and/or their agents owed to the Plaintiff a duty to exercise reasonable care.

32. Contrary to said duties, Defendants Whole Foods Market, Inc., Defendants Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents breached said duties and were negligent, including but not limited to:

- a. Caused a floor mat, which moved and/or puckered to be placed on the floor adjacent to the produce area;
- b. Failed to exercise reasonable care;
- c. Failed to employ adequate and/or properly train and/or qualified agents to carry out the duties of the Defendants;
- d. Failed to properly screen, hire, train, educate and/or supervise its agents and employees;
- e. Failed to take reasonable precautions to protect Melanie Welch from dangers that were foreseeable;
- f. Failed to keep adequate records;
- g. Failed to timely and properly remove the floor mat that was in the area before the Plaintiff fell;
- h. Placed down a floor mat that would not stay flat;
- i. Did not use proper floor mats;
- j. Failed to properly inspect their premises and/or the floor mats;
- k. Failed to warn Melanie Welch that the floor mat would pucker and/or move;
- l. Failed to maintain the floor and/or floor mat in a reasonable and safe condition;
- m. Failed to keep the floor and/or floor mat in reasonable repair;
- n. Selected and/or employed negligent and/or careless agents and employees;
- o. Failed to provide proper, adequate, specific and/or complete instructions to its agents and/or employees;
- p. Failed to use ordinary care to warn or otherwise protect the Plaintiff from risk or harm from a condition of the possessor's premises, as the risk of harm was unreasonable and/or the possessor knew that in the exercise of reasonable ordinary care, should have known of the condition and/or should have realized that it involved unreasonable risk or harm to the Plaintiff or other invitees;
- q. Failed to inspect the premises at reasonable intervals to discover conditions that involved an unreasonable risk of harm to the Plaintiff or other invitees;
- r. Failed to act as a reasonable and prudent possessor of the property;

s. Failed to comply with the applicable laws, ordinances and codes.

33. At all times material to this Complaint, Plaintiff Melanie Welch acted reasonably and exercised proper care for her own safety.

34. At all times material to this Complaint, Defendants Whole Foods Market, Inc, Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market were the owner, possessor and occupant of the area that Plaintiff fell and/or injured herself.

35. As a direct and proximate result of the aforementioned acts or omissions of Defendants Whole Foods Market, Inc, Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents, Plaintiff Melanie Welch has incurred injuries and damages including but not limited to:

- a. Physical pain and suffering;
- b. Mental anguish, including embarrassment and humiliation past, present and future;
- c. Decreased enjoyment of life, past and present;
- d. Medical bills;
- e. Miscellaneous expenses.

WHEREFORE Plaintiff Melanie Welch prays for a Judgment against the Defendants Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market, jointly and severally in such amount in excess of \$25,000.00, as the Court deems just and equitable, plus costs, interest and attorney fees.

COUNT II - NEGLIGENCE

36. At all times material to this Complaint, upon information and belief, Defendants Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and/or their agents had contracted with Defendants Aramark Uniform Services, Aramark Uniform & Career

Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents to provide floor mats at the store at 990 West Eisenhower Parkway in the City of Ann Arbor, County of Washtenaw and State of Michigan.

37. Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents provided the floor mat that was placed down in front of the produce which caused the Plaintiff Melanie Welch to fall and injure herself.

38. The specific floor mat referred to in this Complaint would move and/or pucker, as it was not the proper type to use in these circumstances and/or not properly secured to the floor.

39. The Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit Aramark and/or their agents use of the mats that would move and/or pucker created a danger for the Plaintiff and other individuals that happen to walk in the area.

40. Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents created a new hazard by the placement of the mat on the floor may that would move and/or pucker.

41. The Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents knew or should have

known that the type of mats that were placed down in the store that Plaintiff fell on, or were similar to the type that Plaintiff fell on, created a danger to individuals that would use the area.

42. The danger of a store invitee or other individuals falling on the moving and/or puckering floor mat was foreseeable to the Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents..

43. At all times material to this complaint, Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents owed a duty to exercise reasonable care to the Plaintiff.

44. Contrary to said duties, Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents breached said duties and were negligent, including but not limited to:

- a. Provided a floormat, which moved and/or puckered to be placed on the floor adjacent to the produce area;
- b. Failed to exercise reasonable care;
- c. Failed to employ adequate and/or properly train and/or qualified agents to carry out the duties of the Defendants;
- d. Failed to properly screen, hire, train, educate and/or supervise its agents and employees;
- e. Failed to take reasonable precautions to protect Melanie Welch from dangers that were foreseeable;
- f. Failed to keep adequate records;
- g. Failed to properly and/or timely remove the floor mat that was in the area where Plaintiff fell;
- h. Failed to provide a floor mat that would stay flat;
- i. Failed to provide a proper floor mat;

- j. Failed to properly advise the other Defendants and/or their agents as to the proper floor mat to use under the circumstances;
- k. Selected and/or employed negligent and/or careless agents and employees;
- l. Failed to provide proper, adequate, specific and/or complete instructions to its agents and/or employees;
- m. Failed to properly inspect their floor mats at the Whole Food Store;
- n. Failed to warn Whole Foods that the floor mat would pucker and/or move and/or were not the proper floor mats for those circumstances;
- o. Created a new hazard by the placement of the floor mat that would move and/or pucker.

45. That contrary to the duties owed to Plaintiff Melanie Welch, Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents breached their common law duty owed to Plaintiff, which imposes on every person engaged in the prosecution of an undertaking, an obligation to use due care or to so govern their actions so as to not reasonably endanger the person or property of others. *Riddle v McLouth Steel Products Corp*, 440 Mich 85 (1992), citing *Clark v Dalamin*, 379 Mich 251 (1967).

46. At all times material to this Complaint, Plaintiff Melanie Welch acted reasonably and exercised proper care for her own safety.

47. At no time material to this Complaint were Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit an owner, possessor or occupant of the area that Plaintiff fell and injured herself on.

48. The open and obvious defense does not apply to the claim against the Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit as they were not an owner, possessor or occupier of the area where Plaintiff fell.

49. Pursuant to *Hiner v Mojica*, 271 Mich 604 (2006), the open and obvious doctrine does not apply to this negligence count.

50. As a direct and proximate result of the aforementioned acts or omissions of Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents, Plaintiff Melanie Welch incurred injuries and damages including but not limited to:

- a. Physical pain and suffering;
- b. Mental anguish, including embarrassment and humiliation past, present and future;
- c. Decreased enjoyment of life, past and present;
- d. Medical bills;
- e. Miscellaneous expenses.

WHEREFORE Plaintiff Melanie Welch prays for a Judgment against the Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit, jointly and severally in such amount in excess of \$25,000.00, as the Court deems just and equitable, plus costs, interest and attorney fees.

COUNT III – VICARIOUS LIABILITY

51. Plaintiff incorporates by reference all paragraphs of her Complaint to eliminate repetition.

52. At all times material to this Complaint, upon information and belief, Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents and/or employees were acting as agents of Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market and were acting within the scope of their apparent, implied and/or actual authority.

53. The wrongful acts and/or omissions of Defendants Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents and/or employees as set forth in this Complaint were within the scope of their apparent, implied, and/or actual authority as an agent.

54. Whole Foods Market, Inc., Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market are vicariously liable for all such wrongful acts Aramark Uniform Services, Aramark Uniform & Career Apparel, LLC, Aramark Services, Inc, Aramark Uniform Rentals, AUS Detroit Michigan, Aramark, and/or Aramark Detroit and/or their agents and/or employees.

55. As a direct and proximate result of the Defendants' aforementioned negligent acts and/or omissions, Plaintiff Melanie Welch has suffered the damages and injuries as set forth in paragraph 34 and 49.

WHEREFORE, Plaintiff Melanie Welch prays for a judgment against Defendants Whole Foods Market, Inc, Whole Foods Market Group, Inc., Whole Foods Market Midwest, Inc. and/or Whole Foods Market, jointly and severally in such

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amount in excess of twenty-five thousand dollars (\$25,000.00) as the Court deems just and equitable, plus costs, interest and attorney fees.

GARRIS, GARRIS, GARRIS & GARRIS, P.C.

Dated: December 7, 2018

By:



Michael J. Garris
Attorneys for Plaintiff
300 East Washington Street
Ann Arbor, Michigan 48104
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MJG/Sec/Welch/Plead/Plaintiff's Complaint 12-07-18

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

MELANIE WELCH,

Case No.

Plaintiff,

Hon.

v.

WHOLE FOODS MARKET, INC., WHOLE FOODS MARKET GROUP, INC., WHOLE FOODS MARKET MIDWEST, INC., WHOLE FOODS MARKET, ARAMARK UNIFORM SERVICES, ARAMARK UNIFORM & CAREER APPAREL, LLC, ARAMARK SERVICES, INC., ARAMARK UNIFORM RENTALS, AUS DETROIT MICHIGAN, ARAMARK DETROIT, ARAMARK, jointly and severally,

Defendants.

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406 Bay Street, Suite 300
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jdeegan@plunkettcooney.com

VERIFICATION

Rhonda Stowers being first duly sworn, deposes and says that he is the attorney for Defendant, Aramark Uniform & Career Apparel, LLC, and that the foregoing Notice of Removal is true in substance and in fact to the best of his knowledge, information, and belief.

Subscribed and sworn to before me on

1/3/19

Kathleen M. Forde

Kathie Forde, Notary Public
Genesee County, Michigan
My Commission Expires:

KATHALEEN M. FORDE
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Apr 16, 2025
ACTING IN COUNTY OF

Respectfully submitted:

Rhonda Stowers

Rhonda R. Stowers
Attorneys for Def. Amark Uniform &
Career Apparel, LLC
111 E. Court St., Ste. 1B
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(810) 342-7003
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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

MELANIE WELCH,

Case No.

Plaintiff,

Hon.

v.

WHOLE FOODS MARKET, INC., WHOLE FOODS MARKET GROUP, INC., WHOLE FOODS MARKET MIDWEST, INC., WHOLE FOODS MARKET, ARAMARK UNIFORM SERVICES, ARAMARK UNIFORM & CAREER APPAREL, LLC, ARAMARK SERVICES, INC., ARAMARK UNIFORM RENTALS, AUS DETROIT MICHIGAN, ARAMARK DETROIT, ARAMARK, jointly and severally,

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APPEARANCE

PLEASE ENTER my Appearance as attorney in the above-entitled matter
for the named Defendant Aramark Uniform & Career Apparel, LLC.

Respectfully submitted,

PLUNKETT COONEY

/s/Rhonda R. Stowers

Rhonda R. Stowers (P64083)

Attorney for Defendant

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rstowers@plunkettcooney.com

Dated: 1/3/19

CERTIFICATE OF ELECTRONIC FILING

Rhonda Stowers certifies that a copy of the Appearance and this Certificate of Electronic Filing was electronically filed with the United States District Court, Eastern District of Michigan, in the above cause on 1/3/19. A copy will be provided to counsel of record via first class mail. I declare under the penalty of perjury that the above statement is true to the best of my knowledge, information and belief.

/s/Rhonda R. Stowers

Rhonda R. Stowers (P64083)

Attorney for Defendant

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